

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ATLANTIC CASUALTY INSURANCE COMPANY

Plaintiff,

-against-

FORTHRIGHT CONSTRUCTION, INC.,
WONDERWORKS CONSTRUCTION CORP., VASILIS
AFTOUSMIS and CONSTANTIA AFTOUSMIS

Defendants.
-----X

Docket Number: 07 CIV 4098

**ANSWER TO UNVERIFIED
COMPLAINT FOR
DECLARATORY
JUDGMENT AND MONEY
JUDGMENT**

Hon. Judge Chin

Defendant, Forthright Construction Inc., (Hereinafter "Defendant") by its attorneys, The Law Offices of William Pager, as and for its answer to the Unverified Complaint for Declaratory Judgment and Money Judgment herein, respectfully alleges the following upon information and belief:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs "5", "7", "14", "17", "18", "24", "31" and "36" of the complaint, except admits that Atlantic Casualty Insurance Company transacts business in the State of New York.
2. Admits the allegations contained in paragraphs "15" and "16" of the complaint.
3. Denies the allegations contained in paragraphs "6", "8", "9", "10", "11", "12" and "13" of the complaint and refers all questions of the law to the Court for determination at the time of trial or hearing.
4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs "1", "2", "3", "19", "20", "21" and "22" of the complaint and refers all questions as to the allegations made in the underlying action of *Vaslis Aftousmis and Constantia Aftousmis v. Wonder Works Construction Corp. and Forthright Construction, Inc.*, Index No. 102479/07 Supreme Court of the State of

New York, County of New York, filed on or about February 22, 2007 to the Court for determination at the time of trial or hearing.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs "25", "26", "27" and "28" of the complaint and refers all questions as to the contents of the Insurance Contract to the Court for determination at the time of trial or hearing.
6. Denies each of the allegations contained in paragraphs "4", "23", "30", "32", "34", "35", "37", "38" and "39" of the complaint.
7. Repeats and reiterates each of the foregoing paragraphs as to the allegations contained in paragraphs "29" and "33" of the complaint as if fully set forth herein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

The complaint fails to state a cause of action against the answering Defendant

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

The Court lacks jurisdiction over the answering defendant.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

Plaintiff did not assert a disclaimer of coverage within the required time frame.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

Plaintiff did not assert a disclaimer of coverage with the required particularity.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

The Complaint must be dismissed as the plaintiff has failed to join a necessary party.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

The answering defendant, not being fully advised as to all the facts and circumstances surrounding the incident(s) and/or event(s) complained of, hereby asserts and reserves unto itself the defenses of accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense which further investigation of the matter may prove applicable herein.

WHEREFORE, the defendant Forthright Construction Inc., demands the following relief:

1. Judgment dismissing the Complaint
2. Costs and disbursements
3. Attorney's fees
4. Any other relief to which it may be justly entitled.

Dated: Brooklyn, New York
June 22, 2007

Yours, etc.

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